

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-15527

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT May 19, 2009 THOMAS K. KAHN CLERK

D. C. Docket No. 07-80263-CV-KAM

FICUS FARM, INC.,

Plaintiff-Appellant,

versus

UNITED STATES DEPARTMENT OF AGRICULTURE-RISK
MANAGEMENT AGENCY, FEDERAL CROP INSURANCE
CORPORATION, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(May 19, 2009)

Before MARCUS and PRYOR, Circuit Judges, and EDENFIELD,* District Judge.

* Honorable B. Avant Edenfield, United States District Judge for the Southern District of Georgia, sitting by designation.

PER CURIAM:

Appellant Ficus Farm, Inc. (“Ficus Farm”), a nursery located in Loxahatchee Florida, appeals from the district court’s August 27, 2008 order granting final summary judgment to United States Department of Agriculture- Risk Management Agency (“RMA”) et al. The suit arose out of an insurer’s decision not to indemnify Ficus Farm for part of its claimed nursery losses. Ficus Farm had claimed an insurance loss of palms, ferns, Jessamine and Veriegated Ginger plants due to excessive moisture following a series of storms in 2005. The RMA reviewed the insurer’s decision and upheld the insurer’s partial denial of Ficus Farm’s claim because the owner of Ficus Farm (1) had misrepresented material facts to the insurer; (2) had destroyed certain crops without the written permission of the insurer in violation of the policy; and (3) had failed to mitigate its losses.

The district court upheld the agency determination, concluding that there was substantial evidence to support each of the agency’s findings, and its conclusion. After thorough review, we affirm the final order of summary judgment based on the district court’s well-reasoned and thorough opinion.

AFFIRMED.